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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

TA SIU,

Plaintiff and Appellant,

v.

JEAN CHANG,

Defendant and Respondent.

B235813

(Los Angeles County  
Super. Ct. No. BC428495)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Steven J. Kleifield, Judge. Affirmed.

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Kenner Law Group and Jason J.L. Yang for Plaintiff and Appellant.

Law Offices of Kenneth I. Gross and Associates, Kenneth I. Gross, and Thomas  
D. Shambaugh for Defendant and Respondent.

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Plaintiff Ta Siu appeals from the summary judgment entered in favor of defendant Jean Chang in this fraudulent conveyance action. We affirm the judgment because the action is untimely.

### BACKGROUND

In January 1999, George Chang quitclaimed to his then-wife Jean Chang his interest in their family residence.<sup>1</sup> (*Sanwa Bank California v. Chang* (2001) 87 Cal.App.4th 1314, 1316 (*Sanwa Bank*).) George received no consideration for the quitclaim, and Jean became the record owner of the property.

In June 1999, one of George's creditors sued George and Jean in superior court concerning one of George's debts. (*Sanwa Bank, supra*, 87 Cal.App.4th at p. 1316.) In that litigation, the superior court found that the conveyance by quitclaim from George to Jean was fraudulent within the meaning of Civil Code section 3439.04; that determination was not challenged on appeal.<sup>2</sup> (*Sanwa Bank, supra*, 87 Cal.App.4th at p. 1317.) The Court of Appeal affirmed the judgment in an opinion filed on March 23, 2001. (*Id.* at p. 1315-1316.)<sup>3</sup>

Between May 22, 2003, and July 28, 2003, Siu loaned George \$240,000. The record contains a document purportedly signed by George on February 2, 2007, acknowledging the existence, amount, and terms of the loan.

In December 2009, Siu sued George and Jean to collect on the 2003 loan, which Siu alleged had not been repaid. In his first amended complaint, Siu alleged against George and Jean a cause of action for fraudulent conveyance, based on the 1999 quitclaim and on other alleged transfers of unspecified assets.

Jean moved for summary judgment, arguing, inter alia, that the fraudulent conveyance action based on the 1999 quitclaim was untimely and that Siu had no

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<sup>1</sup> We will henceforth refer to the Changs by their first names, to avoid confusion. No disrespect is intended.

<sup>2</sup> All subsequent statutory references are to the Civil Code.

<sup>3</sup> Jean has nonetheless continued to be the sole holder of title to the property.

evidence of any other alleged fraudulent transfers. In opposition, Siu argued that the fraudulent conveyance action based on the 1999 quitclaim was timely, but he did not argue that he had evidence of any other alleged fraudulent transfers.

The trial court granted Jean's motion and entered judgment in her favor. Siu timely appealed from the judgment.<sup>4</sup>

### STANDARD OF REVIEW

We review the trial court's ruling on a motion for summary judgment de novo. (*Buss v. Superior Court* (1997) 16 Cal.4th 35, 60.)

### DISCUSSION

Jean argues that Siu's fraudulent conveyance action is untimely under subdivision (c) of section 3439.09, which provides that "[n]otwithstanding any other provision of law, a cause of action with respect to a fraudulent transfer or obligation is extinguished if no action is brought or levy made . . . within seven years after the transfer was made or the obligation was incurred." Siu argues, to the contrary, that the action is timely because the seven-year period runs from the date that the "obligation was incurred" (§ 3439.09, subd. (c)), which Siu interprets to mean the date that Siu made his loan to George in 2003. That is, Siu contends that the word "obligation" in subdivision (c) of section 3439.09 refers to the obligation that the plaintiff creditor seeks to enforce by obtaining relief against a fraudulent transfer made by the debtor. We disagree with Siu and conclude that his action is untimely.

The provisions of the Uniform Fraudulent Transfer Act (§ 3439 et seq.) refer repeatedly to fraudulent *transfers or obligations*. Section 3439.04 provides that "[a] transfer made or obligation incurred by a debtor is fraudulent as to a creditor" "if the debtor made the transfer or incurred the obligation" under certain circumstances. (See also § 3439.04, subd. (b) [a transfer or obligation is fraudulent if the debtor meets certain conditions and did not receive "a reasonably equivalent value in exchange for the

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<sup>4</sup> Siu's request for judicial notice, filed April 27, 2012, is granted.

transfer or obligation”].) Section 3439.05 defines additional circumstances in which “[a] transfer made or obligation incurred by a debtor is fraudulent” as to certain creditors. Another provision describes remedies that a creditor may obtain “[i]n an action for relief against a transfer or obligation under this chapter.” (§ 3439.07, subd. (a).) Section 3439.08 defines conditions under which “[a] transfer or an obligation is not voidable” even if it is fraudulent under subdivision (a) of section 3439.04, and the same statute also refers to the “voidability of a transfer or an obligation under this chapter.” (§ 3439.08, subds. (a) & (d).) In all of those contexts, the word “obligation” refers to an obligation fraudulently incurred by the defendant debtor, against which the plaintiff creditor seeks relief in a fraudulent conveyance action. It refers to an obligation that the creditor seeks to *avoid*, not the obligation that the creditor seeks to *enforce*.

Section 3439.09 establishes the time limits for “[a] cause of action with respect to a fraudulent transfer or obligation under this chapter.” For certain claims, subdivision (a) of section 3439.09 provides that the action may be brought “within one year after the transfer or obligation was or could reasonably have been *discovered by the claimant*.” (Italics added.) Here again, the word “obligation” must refer to an obligation fraudulently incurred by the defendant debtor, which the plaintiff creditor seeks to avoid—the statute would be unintelligible if the word “obligation” referred to the obligation that the plaintiff creditor (i.e., “the claimant”) was seeking to enforce. (§ 3439.09, subd. (a).)

Subdivision (c) of section 3439.09 similarly provides that “[n]otwithstanding any other provision of law, a cause of action with respect to a fraudulent transfer or obligation is extinguished if no action is brought or levy made . . . within seven years after the transfer was made or the obligation was incurred.” Read in the context of the other subdivisions of section 3439.09, and in the context of the other provisions of the Uniform Fraudulent Transfer Act, the word “obligation” in subdivision (c) must refer to an obligation fraudulently incurred by the defendant debtor, which the plaintiff creditor seeks to avoid, not to the obligation that the plaintiff creditor seeks to enforce. Otherwise, subdivision (c) would inexplicably impose a seven-year deadline for actions

concerning transfers fraudulently made but no deadline at all for actions concerning obligations fraudulently incurred.

Siu's only argument for a contrary interpretation is that "[i]f the Legislature intended to make one expiration date to apply to all creditors, it would have removed the word 'obligations' from the statute to allow the seven years to begin to run after each time a debtor makes a fraudulent 'transfer' of the assets." We disagree. The Legislature used the word "obligation" throughout the Uniform Fraudulent Transfer Act in general and throughout section 3439.09 in particular in order to address both transfers fraudulently made and obligations fraudulently incurred (such as encumbering real property without receiving compensation of reasonably equivalent value, under the conditions specified by statute). Given that the other provisions of the Uniform Fraudulent Transfer Act refer to both fraudulent transfers and fraudulent obligations, the Legislature had to include both in the limitations provisions of section 3439.09. Otherwise, it would not have been clear that the limitations provisions applied to both transfers fraudulently made and obligations fraudulently incurred.

For all of the foregoing reasons, we conclude that the undisputed facts show that Siu's fraudulent conveyance action against Jean is untimely and the summary judgment in Jean's favor should therefore be affirmed.

Siu also argues that there are factual disputes as to whether Jean is the owner of the property that was the subject of the quitclaim and whether George validly deeded his interest in that property to Jean, and Siu argues that the existence of these factual disputes precludes summary judgment. We disagree. Those factual disputes are not material, because they have no effect on the merits of Jean's statute of limitations defense to Siu's fraudulent conveyance action. That is, even if George did not validly deed his interest to Jean, so Jean is not the (sole) owner of the property, the fraudulent transfer still took place in 1999. Siu's 2009 fraudulent conveyance action against Jean is therefore untimely.

Because we agree with Jean that the action is untimely, we need not address her other arguments for affirmance.

DISPOSITION

The judgment is affirmed. Respondent shall recover her costs of appeal.

NOT TO BE PUBLISHED.

ROTHSCHILD, Acting P. J.

We concur:

CHANEY, J.

JOHNSON, J.